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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 96-035

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. The board should review and correct the following deficiencies in the arrangement of the sections of the rule:

- (1) The treatment clauses of the SECTIONS in the rule should not repeat the title of the section being amended nor should they include the word “chapter.” All of the treatment clauses in the rule should be revised to reflect the style in s. 1.04 (1), Manual.
- (2) Amendments to titles should be noted in the treatment clause and the text of the rule using the format specified in s. 1.05 (3), Manual. This style was not followed in the treatment of the amendment to the titles of ss. ERB 1.04, 1.06 and 1.07.

b. The text of the rule following the treatment clause should begin with a complete citation to the provision being affected. For example, the text of SECTION 1 should begin “ERB 1.01 The purpose of this chapter...” The entire rule should be redrafted to reflect this style. See the examples in s. 1.04 (2), Manual.

c. When a single word or number is amended, the existing word should be stricken in its entirety. See s. 1.06 (2), Manual. This style was not followed, for example, in the amending of “10” to “5” or “15” in s. ERB 1.04 (3) and (4) or in the treatment of “forms” in s. ERB 1.04 (7) (a) to (h).

d. In cross-referencing a definition, the preferred style is to incorporate the phrase “has the meaning given in.” This phrase was not used in the definition of “committee” in s. ERB 1.02 (3).

e. The preferred drafting style for referencing the definition of “transportation construction project” in s. ERB 1.02 (13) is to use the phrase “as defined in s. 84.013 (1), Stats.”, rather than “as defined by s. 84.013 (1), Stats.”

f. Since “temporary construction facility” is defined in s. ERB 1.02 (13), the reference to its definition in s. ERB 1.04 (3) is redundant and unnecessary as well as incorrect, since the rule cites s. ERB 1.02 (11).

4. Adequacy of References to Related Statutes, Rules and Forms

a. The strike-through of the current text of s. ERB 1.04 (4) does not contain all of the current text of s. ERB 1.04 (4). In the Administrative Code, sub. (4) begins “The primary contractor or owner...” and this text is not accounted for in the treatment of s. ERB 1.04 (4).

b. The last sentence in the text of s. ERB 1.04 (4) is not in the current text of s. ERB 1.04 (5) in the Administrative Code. Thus, the rule should not include the strike-through of this sentence. Also, the material preceding the last sentence in s. ERB 1.04 (4) does not reflect the text in current s. ERB 1.04 (5).

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The definitions of “emergency planning notification fee statement” and “planning notification fee statement” in s. ERB 1.02 (4) and (10) are almost identical. The board should either clarify the differences between these terms, if it intends to use both terms, or use only one of the terms in the rule.

b. In the definition of “Road de-icing agent” in s. ERB 1.02 (11), “substances” should be replaced by “a substance” to match the singular “agent.”

c. To provide parallel construction of the phrases in the definition of “temporary construction facility” in s. ERB 1.02 (13), “a” should precede “transportation.”

d. The inclusion of “as” before “under” in s. ERB 1.07 (2) is not necessary to convey the plain meaning of this provision.